



COMMONWEALTH of VIRGINIA

Department for the Aging

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Note: The web addresses (links) in this document may change over time. The Department for the Aging does not attempt to refresh the links once the week has passed. However, this document is maintained on the web for a period of time as a reference. Some links may require registration.



09-07

COMMONWEALTH of VIRGINIA
Department for the Aging

MEMORANDUM

TO: Executive Directors
Area Agencies on Aging

AND: Nutrition Directors

FROM: Elaine S. Smith, MS, RD
Program Coordinator

DATE: October 15, 2008

SUBJECT: Breakfast Staples Meal Pattern

I am aware that a number of agencies have engaged in a past practice of providing a bulk package of shelf stable cereal, milk, and juice to meal participants. These supplies were delivered monthly or periodically and were counted as various numbers of eligible meals, such as 20 or 28, depending on the actual amounts and foods included.

Perhaps at one time, when these breakfasts were combined with a substantial prepared meal, 2/3 of the RDA may have been provided if the content of the two meals was considered. However, with the advent of the Dietary Reference Intakes (DRIs), 2005 Dietary Guidelines for Americans, and VDA's menu planning guidelines, these breakfast staples do not provide 1/3 of the nutrient needs for older adults. Therefore, you must no longer count the cereal, milk, and juice supplies as eligible meals.

I have been working with Susan Sciotto at the Lake Country Area Agency on Aging (LCAAA) to modify their breakfast staple package so that it acceptably provides 1/3 of the DRIs for seniors. LCAAA wanted to continue the additional meals but realized that in order to make them meet the nutrient requirements they would have to provide additional foods – particularly fruit and a protein source – and therefore additional expense would be incurred. What follows represents a smaller number of meals that will meet nutrition requirements and enable the agency to continue to supplement their current meal program of hot and frozen meals more reasonably within their budget.

We offer the following breakfast staple meal pattern:

One 25 ounce box of whole grain/wheat cereal (high fiber)
One box of dry milk equal to 96 fluid ounces when properly reconstituted
One 12 ounce jar of peanut butter
Two 46 ounce cans/bottles of orange juice and/or vegetable juice
One 48 ounce jar of applesauce
One 15 ounce box of raisins

One can of the orange juice OR one of the fruits can be omitted and the meal will still meet nutrition requirements.

We calculate that this package will provide 12 meals. Remember that since this is a shelf stable meal multi pack, you must include written instructions or a menu with it to explain how to combine the foods to make a meal.

Each meal will consist of the following:

2 – 1 ounce servings of high fiber cereal
1 cup of reconstituted dry milk
1 ounce of peanut butter (1 to 2 tablespoons)
1 cup of orange juice
½ cup of applesauce
¼ cup of raisins

Nutrition Analysis Notes:

The cereal must be a higher fiber type that provides at least 3 grams of dietary fiber per serving.

Instead of 1 of the servings of cereal, I tried to include whole grain crackers so that there would be something to eat the peanut butter on. None of the crackers that I analyzed and that you would most likely use, had enough fiber to make the meal meet the fiber requirements. So we stuck with the 2 servings of cereal. It's possible that whole grain bread could substitute for the cereal but it is more perishable. If anyone has other suggestions, we will evaluate them.

This meal provides less than the calcium requirement. Therefore, your other daily meal must provide about 450 mg of calcium (rather than 400) so that the 2 meals together will provide 800 mg of calcium or 2/3 of the DRIs for calcium.

The breakfast staple meal also provides less than the protein requirement that we are aiming for. Therefore, your other daily meal must provide at least 3 ounces of a high quality protein source, preferably meat, fish, or poultry.

Other types of dried fruit could also be substituted for the raisins without affecting the nutrient analysis. I will gladly help you with calculating the equivalent servings.

Cost and Packaging Considerations:

Susan's rough estimate is that the package of 12 meals will cost about \$1.30 per meal. Their plan is to continue delivering monthly breakfast staples as usual, although with this pattern it is fewer meals, via their regular drivers. When the change in meals was discussed, the drivers didn't think it would make a major difference in their routine or delivery duties. As of this writing, I am not aware that LCAAA has actually started distributing the revised package.

If you have other suggestions or questions or if your agency is distributing a different package of breakfast meals that you would like to have analyzed to see if they are meeting the nutrient requirements, please let me know at Elaine.Smith@vda.virginia.gov or 804-662-9319.



COMMONWEALTH of VIRGINIA
Department for the Aging

MEMORANDUM

TO: Executive Directors
Area Agencies on Aging

FROM: Ellen Nau, Program Coordinator

DATE: October 15, 2008

SUBJECT: Caregiving

Family Caregiver Alliance

Age-Related Vision Impairment and the Ambiguous Losses of Caregiving

FCA's [Fact Sheet on Vision Loss](#) discusses the most common causes of age-related vision impairment, with information on macular degeneration, diabetic retinopathy, glaucoma and cataracts. Current approaches to treatment, the emotional toll of vision loss, and how families and caregivers can adapt their environment and help maintain independence for those affected by low vision are covered in straightforward, accessible language. A list of resources for further information is included as well. Contact: www.caregiver.org/

Virginia Department for the Blind and Vision Impaired

The Virginia Department for the Blind and Vision Impaired announces the completed renovation and re-opening of its student dormitory on Friday, September 17. The facility is located at 401 Azalea Avenue, Richmond, VA. There will be an open house from 9 A.M. to 12 Noon on September 17. RSVP to: Eva Ampey at (804) 371-3110.

National Memory Screening Day Set For November 18, 2008

National Memory Screening Day is a collaborative effort spearheaded by the Alzheimer's Foundation of America (AFA) to promote early detection of Alzheimer's disease and related illnesses, and to encourage appropriate intervention.

AFA carries out this event in collaboration with organizations and healthcare professionals across the U.S.—bringing them together for care. Participating sites offer free confidential memory screenings, as well as follow up resources and educational materials to those concerned about memory loss. Together, we hope to improve quality of life. To sign up to participate as a screening site or find a site in your community, please visit: <http://www.nationalmemoryscreening.org/>.

New Consumer Survey on Alzheimer's

The Alzheimer's Disease Screening Discussion Group (ADSDG) recently conducted a new survey showing that U.S. adults do not know as much about Alzheimer's disease (AD) as they think they do. The survey found not only a lack of knowledge surrounding the progressive brain disease, but also revealed conflicting attitudes and behaviors toward taking action to detect and diagnose AD in its early stages. Specifically:

- The majority of adults believe friends and family members are most likely to notice the signs of AD in a potential patient and prompt action, as opposed to a doctor or the patient
- Though nearly all adults claim they would encourage a loved one to seek early diagnosis upon suspecting signs of AD, far fewer actually took action when faced with the situation in their own lives
- Very few adults were able to identify the difference between signs of early disease, late disease, and those unrelated to AD, despite the fact that they considered themselves to be aware of this knowledge

The ADSDG, a consortium of multi-disciplinary experts in AD and senior health, believes this survey underscores the need for adults to learn more about AD so they are better prepared to seek medical help as soon as symptoms appear. Alzheimer's disease is now ranked as the sixth leading cause of death in the U.S. with more than five million Americans suffering from the disease. It is estimated that 16 million will have AD by the year 2050.

To learn more about the survey, click here

<http://www.seethesigns.com/main/pressrelease.html>

Fairfax County Area Agency on Aging

In addition to its November 7 Caregiver Conference, Fairfax County Area Agency on Aging announces two additional activities for November, National Family Caregiver Month:

1. The Fairfax County Board of Supervisors will proclaim November 2008 as Family Caregiver's Month in Fairfax County during their regular board meeting which will be held on Monday, Oct. 20.
2. The Fairfax Family Caregiver Support Program plan to have a photo display of our local family caregivers in the Pennino Building from Nov. 3-7, and Fairfax County's Government Center from Nov. 10-14.

CDC Includes Caregiver Questions in National Health Survey Questionnaire

The Centers for Disease Control and Prevention (CDC) recently approved an optional state module on family caregiving for the 2009 Behavioral Risk Factors Surveillance Survey (BRFSS), an ongoing telephone health survey system. The 2009 BRFSS will include one mandatory question to identify the prevalence of informal caregiving in the states. The mandatory question asks whether the survey respondent is providing care or assistance to a friend or relative with a health problem, long-term illness or disability. The optional caregiving module in the 2009 survey includes nine questions that states can include in their BRFSS survey in order to collect more detailed information about the particular caregiving situation to aid in program planning and policy development. States are currently in the process of putting together their BRFSS surveys for 2009. For more information, visit: <http://www.cdc.gov/brfss/>

Federal Government Awards New State Grants to Help Veterans and Adults with Alzheimer's Remain at Home and in the Community

On September 29, 2008, the Department of Health and Human Services announced \$36 million in new grant programs to 28 states to help older Americans, veterans and people with Alzheimer's disease remain in their homes and communities. Just over \$19 million of this funding involves a new collaboration with the Department of Veterans Affairs (VA) to provide consumer-directed home and community-based services to older Americans and veterans of all ages, as part of a Nursing Home Diversion (NHD) grants

program. The other \$17 million will go to improve the delivery of home and community-based services to people with Alzheimer's disease and their family caregivers. For more information, visit:

http://www.aoa.gov/press/For_the_press/pr/archive/2008/September/9_29_08.aspx

Changes to the Disability Rating Schedule for Traumatic Brain Injuries and Burn Scars (VA announcement)

On September 22, the Department of Veterans Affairs (VA) announced changes in the way the VA will evaluate traumatic brain injuries (TBI) and burn scars for the purpose of determining the appropriate level of compensation that veterans receive for these injuries. Two groups of veterans may be affected by these changes: those who will be awarded disability compensation for TBI and burn injuries in the future, and those who are already receiving compensation for these injuries.

The VA has revised the Disability Rating Schedule in light of current scientific and medical knowledge so that VA employees have more detailed and up-to-date criteria for evaluating and compensating veterans with these injuries. "These important regulatory changes will allow VA decision makers to better assess the consequences of these injuries and ensure veterans are properly compensated for their residual effects," stated Secretary of Veterans Affairs Dr. James B. Peake. According to the VA, as of September 2008, there are more than 22,000 veterans being compensated for TBI, of whom more than 5,800 are veterans of the conflicts in Iraq and Afghanistan. To learn more, please visit: www.va.gov or www.federalregister.gov/OFRUpload/OFRData/2008-22083_PI.pdf.



09-09

COMMONWEALTH of VIRGINIA
Department for the Aging

MEMORANDUM

TO: Executive Directors
Area Agencies on Aging

FROM: Janet James, Esq. – State Legal Services Developer

DATE: October 15, 2008

SUBJECT: Legal Assistance Service Standard (*Revised Form* – Effective 1/1/09)

Attached is the revised service standard for *Legal Assistance* that will be effective January 1, 2009.

I want to personally thank each of you for your valuable contributions, research and edits on this important project. Please feel free to contact me should you have questions and/or are interested in technical assistance training for your staff on this service standard. My direct telephone number is (804) 662-7049 and my email address is janet.james@vda.virginia.gov.

Thank you.

LEGAL ASSISTANCE
VIRGINIA DEPARTMENT FOR THE AGING
SERVICE STANDARD¹
(Effective 1/1/09)

I. SERVICE PROVIDED

Legal Assistance funded by Title III-B of the Older Americans Act (OAA)

II. DEFINITIONS

“Legal Assistance” as defined in the Older Americans Act --

(A) means legal advice and representation provided by an attorney to older individuals (60 years of age and older) with economic or social needs; and

(B) includes--

- (i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and*
- (ii) counseling or representation by a nonlawyer where permitted by law.*

Public Law 109-365, §102(33) enacted 10/17/06²

In Virginia, “Legal Assistance” also may include –

Outreach to those in greatest social or economic need targeted under the Older Americans Act, education, group presentations and training designed to protect the legal rights of older adults using materials developed under the direct supervision of an attorney.

Terms used in the OAA definition of Legal Assistance have the following meanings:

- **“Attorney”** means: A lawyer licensed and authorized by the Virginia State Bar to practice law in the Commonwealth of Virginia.
- **“Nonlawyer”** means: A person who is not a licensed attorney, but who is specifically permitted by federal or state law to provide limited counseling or representation (for example representation in Social Security administrative hearings and certain other public benefit hearings).
- **“Economic Need”**: The OAA does not define this term, but it does define

¹ If you have questions about anything contained in this Standard, please contact the Legal Services Developer at the Virginia Department for the Aging

² All sections of the Older Americans Act as Amended in 2006 {Public Law (P.L.) 109-365} referenced in this Standard can be found on both the Administration on Aging and The Center for Social Gerontology web sites: http://www.aoa.dhhs.gov/OAA2006/Main_Site/oa/oa_full.asp and <http://www.tcsq.org/law/2006OAACompleteComp.pdf>

“Greatest Economic Need” as “... *the need resulting from an income level at or below the poverty line.*” (P.L. 109-365, §102(23),(43))

- * **“Social Need”**: The OAA does not define “social need,” but it does define “Greatest Social Need” as “... *the need caused by non-economic factors, which include –*
(A) *physical and mental disabilities;*
(B) *language barriers; and*
(C) *cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that –*
(i) *restricts the ability of an individual to perform normal daily tasks; or*
(ii) *threatens the capacity of the individual to live independently.*”
P.L. 109-365, §102(24)

“Unduplicated Client”: The US Administration on Aging requires states to report the numbers of “unduplicated” persons served with OAA funds. For legal assistance, this means the number of different individuals who received legal assistance from the legal provider during a federal fiscal year. For the “unduplicated count,” a client is counted only once for the year regardless of how many times the client returned that year for assistance on either the same or different legal issues. Thus the number of “cases” handled by a legal provider is often greater than the number of “unduplicated clients.”

III. ELIGIBLE POPULATION

As defined in the OAA, Legal Assistance is for *persons aged 60+ “in social or economic need.”* The Act further specifies that services be particularly targeted to older individuals: with greatest economic need; with greatest social need; at risk for institutional placement; with limited English proficiency; low-income minority older individuals; and, those residing in rural areas. (See for example, P.L. 109-365, §306(a)(4)). In Virginia, residents of long-term care facilities are also a very important group to be targeted for legal assistance.

However, while the Act requires that these groups be particularly targeted for service, mechanisms to achieve targeting may not include the use of a means test. Allowable and effective mechanisms to achieve targeting without means testing include strategic outreach to specific target groups of older persons and/or persons who work with them, and focusing on particular types of legal issues that reflect the most critical and basic needs of the target populations, for example public benefits, housing, and long term care.

IV. SERVICE DELIVERY ELEMENTS

A. TYPES OF LEGAL ASSISTANCE PROVIDERS

Legal assistance must be provided by an attorney or by a paralegal/law student

under the direct supervision of a licensed attorney. The Act calls for Area Agencies on Aging (AAAs) to select as their legal assistance provider the entity that is best able to provide the targeted legal services described in the Act. Examples of things to consider in selecting the “best entity,” include such things as the capacity of the provider to:

- ◆ Protect the autonomy, dignity and independence of vulnerable older persons;
- ◆ Focus outreach and service on those in the greatest social and economic need – often those least able to advocate on their own behalf;
- ◆ Foster cost-effective, high quality legal services, having maximum impact on those in greatest social and economic need and their most critical legal needs;
- ◆ Assist vulnerable older persons in preventing legal problems through education and outreach; and
- ◆ Be accessible throughout the Planning and Service Area (PSA), particularly to the target populations specified in the OAA.

See the OAA, P.L. 109-365, §307(a)(11) for required contract provisions or contact the State Legal Services Developer at VDA for technical assistance (see Footnote 1).

AAAs can accomplish this through one, or a combination, of the following methods:

1. CONTRACT WITH A LEGAL AID FUNDED BY LEGAL SERVICES CORPORATION (LSC).
This means that the AAA contracts with an existing licensed local legal aid program that is funded by the LSC and operates in accordance with Federal law.
2. CONTRACT WITH A LEGAL AID NOT FUNDED BY LSC.
This means that the AAA contracts with an existing licensed local aid program that is not funded by the LSC. In this case, the OAA requires the Legal Aid not funded by LSC to coordinate services with any existing LSC-funded program in the area (usually a different local legal aid program) in order to maximize the use of limited OAA Title III-B funds.
3. STAFF ATTORNEY HOUSED IN AAA:
This means an attorney employed by the AAA who provides legal assistance directly to older clients in social or economic need. In this case, the OAA requires coordination of services with an existing LSC-funded program (usually a local legal aid program) in order to maximize the use of limited OAA Title III-B funds. It is important that, under this model, the attorney not serve as in-house counsel to the AAA. Further, under the OAA, the AAA would need a waiver from VDA in order for the AAA staff attorney to provide direct service to clients.
4. CONTRACT WITH A PRIVATE ATTORNEY.
This means that the AAA contracts with a private attorney to provide legal assistance to older clients in social or economic need. In this case, the

OAA requires coordination of services with an existing LSC-funded program (usually a local legal aid program) in order to maximize the use of limited OAA Title III funds.

5. CONTRACT WITH A LAW SCHOOL CLINICAL PROGRAM.

If an AAA is considering a law school, please contact the Legal Services Developer at VDA (see Footnote 1)

In all cases where practical, an attempt should be made to involve the private bar in legal assistance activities, including groups within the private bar willing to furnish legal assistance to older adults on a pro bono or reduced fee basis.

B. PRIORITY SERVICES:

The Older Americans Act uses the term “priority services” in two ways.

First, it designates legal assistance services as one of three priority services (access, in-home, and legal) that in the absence of a waiver from VDA, must be funded by every AAA. At a minimum, each AAA must fund each of the priority services at a base level established by VDA. The current base level for Virginia is 1% of Title III-B allocated funds. However, AAAs are permitted and encouraged to increase the base level as appropriate.

(P.L. 109—365 §306(a)(2), §307(a)(2)(C))

Second, the Act addresses the types of legal issues that are to receive priority in delivering services. It requires that in funding legal assistance services, area agencies “... *give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.*”

(P.L. 109—365 §307(a)(11) (E))

C. OUTREACH TO TARGET GROUPS, EDUCATION, TRAINING & PRESENTATIONS:

Recognizing that OAA III-B resources are inadequate to meet the legal needs of all older persons, legal assistance services must be particularly targeted to older persons in greatest economic and social need. The OAA specifies a number of target groups, with emphasis on low-income older persons, low-income minority older persons, older persons with limited English proficiency, and those residing in rural areas. Often, the target populations don’t recognize their problems as being legal in nature and don’t know where or how to access affordable legal services. Further, they are often the least able to advocate on their own behalf, while they are the most difficult to reach and serve. Targeted outreach and strategic education/presentations on critical legal issues affecting the most vulnerable older persons are essential to effective targeting. This type of outreach and education is best achieved through joint planning by the AAA and legal provider and coordinating efforts to conduct outreach and education. Qualified individuals will conduct outreach, education and training, and legal training materials will be developed under the direct supervision of an attorney.

D. PROHIBITED SERVICES:

Legal Assistance will not be provided for:

- Any criminal matter;
- Any civil action involving post criminal conviction relief;
- Any action concerning euthanasia or abortion;
- Any strike, boycott, picketing or demonstration; or
- Any illegal activity.

See 42 United States Code §2996e; 42 United States Code §2996f and 42 United States Code (USC) §14404.

Further, the OAA Regulations (Title 45 Code of Federal Regulations (CFR), §1321.71(g)-(k)) include prohibitions specific to III-B legal assistance providers and the use of III-B legal assistance funds. These include:

- Providing legal assistance in fee-generating cases, with certain exceptions (45 CFR §1321.71(g));
- Engaging in specified prohibited political activities (45 CFR §1321.71(h));
- Engaging in lobbying activities as described in the Regulation (45 CFR §1321.71(i));
- Participating in any public demonstrations, boycotts, etc. as described in the Regulation (45 CFR §1321.71(j));
- Paying dues exceeding \$100 to any organization (other than a bar association) that engages in the above prohibited activities (45 CFR §1321.71(k)).

V. ASSESSMENT:

The Virginia Service Quick Form (July 2008)³ is used for legal assistance services. Federal poverty should be determined and documented on this form.

A. ADMINISTRATIVE/REPORTING ELEMENTS

1. UNITS OF SERVICE DEFINED:

As used here, “unit of service” is for reporting purposes only, not for billing purposes. Under the Administration on Aging NAPIS reporting system, a unit of service for legal assistance is one hour. What this means is that each hour of providing legal assistance (including such things as case preparation, legal research, drafting documents, preparing materials for outreach/community education, conducting the outreach/education, etc.) is equal to the corresponding number of “units.”

2. PROGRAM REPORTS:

³ The Virginia Service Quick Form was revised in July 2008 to make clear that name, address and telephone numbers are not permitted for Legal Assistance and Elder Abuse Services. In order to protect client confidentiality and the attorney-client relationship, a unique number (or numbers and letters) should be used to track services and outcomes.

Information to be reported is captured at three different points: (a) at client intake; (b) at case closing; and (c) when special outreach/community legal education activities are conducted.

(a) At Client Intake: At the time of client intake, a client- specific assessment should be performed to capture information relevant to targeting and needed for reporting. This includes:

- Client demographics/characteristics such as age, gender, ethnicity, race; and
- The type of legal issue on which the client is seeking assistance.

(b) At Case Closing: Information to be captured at the time of case closing includes:

- The type of legal issue on which service was provided to the client;
- The outcome of the service for the client; and
- The total number of hours (“units”) spent by the provider on the client’s case.

(c) When Special Outreach/Community Legal Education Activities are Conducted: Information to be captured will include:

- Dates and locations of outreach and educational activities;
- Type of outreach conducted or topic of educational presentation;
- Specific groups targeted by the outreach or types of persons attending the educational activity;
- Estimated number of people reached through the outreach or educational activity;
- Estimated number of hours spent in preparation, travel, and conduct of the outreach or educational activity.

3. INFORMATION REPORTED TO VDA & DUE DATES

The information that must be reported by AAAs to the Virginia Department for the Aging (VDA) includes:

- Number of “Unduplicated” Clients/Persons Served. *See the definition of “unduplicated” under roman numeral II above.*
- Number of Hours/”Units of Service” provided. *See definition of “unit of service” under V.A. 1. above.*

Due Dates: Aging Monthly Report (AMR) must be submitted monthly to VDA by the 12th day of the following month. Client level data must be transmitted to VDA by the last day of the following month.

Optional Group Units cannot be entered into AIM/NWD tools but may be reported on the AMR Optional Unit Report. These include:

- Group Participants – Number of people attending a presentation, meeting or program provided to more than one person.
- Group Presentations – Number of education/training group presentations on legal assistance topics.

B. QUALITY ASSURANCE & CAPACITY

1. LEGAL ASSISTANCE PROVIDER/STAFF QUALIFICATIONS:

AAAs are to select as their legal providers, the entity that best meets certain capacity criteria that are important to quality assurance. Examples of important elements of quality assurance include:

- All attorneys are licensed to practice law in the Commonwealth of Virginia and adhere to the Virginia Rules of Professional Conduct and all professional regulatory requirements to practice law in the Commonwealth;
- Program staff (including attorneys and paralegals) have experience in serving older adults, and knowledge and understanding of legal issues most critical to those in greatest social and economic need;
- Programs have mechanisms in place to protect against conflict of interest and to assure client confidentiality.

2. CRIMINAL BACKGROUND CHECKS:

VDA strongly recommends that the agency and its contractors protect their vulnerable older clients by conducting criminal background checks for staff providing any service where they visit or enter a client's home.

3. STAFF TRAINING:

At a minimum, legal provider staff must meet continuing legal education requirements to practice law in the Commonwealth. In addition, they should have sufficient training to remain current on the most critical legal issues affecting older persons in greatest economic or social need.

4. PROGRAM EVALUATION (BEST PRACTICE RECOMMENDATION):

The agency should conduct regular and systematic analysis of the persons served and the impact of the service. Service providers should be monitored annually. Evaluation may include client satisfaction surveys.

5. RECORDS:

The AAA or service provider must maintain specific program documentation that includes:

- A unique identifier for each client served (e.g. case number)
- Virginia Service Quick Form or electronic data equivalent
- Service provided and case outcome if applicable

Acknowledgment

VDA gratefully acknowledges the assistance of The Center for Social Gerontology, Administration on Aging, Virginia Poverty Law Center, Virginia Area Agencies on Aging and Legal Aid Programs of Virginia for legal research, formatting and other valuable contributions to this Legal Assistance Service Standard revision.